

5/13/11 10:32:29
DK P BK 144 PG 498
DESOTO COUNTY, MS
W.E. DAVIS, CH CLERK

Requested by and
after recording return to:

Return To: First American Title Insurance Company
2001 Airport Road, Suite 301, Flowood, MS 39232
601-366-1222

This instrument prepared by:

FIGRYANH LLC
Attn: Drawbridge Special Opportunities Fund
1345 Avenue of the Americas, 46th Floor
New York, New York 10105
Telephone: (972) 532-4341

Indexing Instructions: Lot 5, Revised Plat of Sutton Place Planned Unit Development, Plat Book 46, Page 17, Section 26, T-1-S, R-8-W, DeSoto County, MS

MEMORANDUM OF LEASE
(Unit 2324, Horn Lake, MS)

This Memorandum of Lease is made and entered into as of April 29, 2011 by and between COLE BU PORTFOLIO II, LLC, a Delaware limited liability company, c/o Cole Real Estate Investments, 2555 East Camelback Road, Suite 400, Phoenix, AZ 85016, Attention: Legal Department, Telephone: (602) 778-8700 ("Landlord"), and FIRE MOUNTAIN RESTAURANTS, LLC, an Ohio limited liability company, whose address is 1020 Discovery Road, Suite 100, Eagan, Minnesota 55121, Attention: Mike Andrews, CEO, Telephone: (651) 365-2626 ("Tenant"), who agree as follows:

1. Terms and Premises. Pursuant to a certain Land and Building Lease (the "Lease") dated on or about the date hereof entered into between Landlord and Tenant, Landlord has leased to Tenant and Tenant has leased from Landlord that certain real property, together with all the improvements thereon and appurtenances thereunto belonging (the "Premises"), more

particularly described on Exhibit "A" which is attached hereto and incorporated herein, from April 29, 2011, expiring on May 1, 2026. Tenant has FOUR (4) five-year options to extend the term of the Lease, all as more particularly set forth in the Lease.


2. Purpose of Memorandum of Lease. This Memorandum of Lease is executed and recorded to give public notice of the Lease between the parties and all terms and conditions of the Lease are incorporated by reference into this Memorandum and this Memorandum of Lease does not modify the provisions of the Lease. If there are any conflicts between the Lease and this Memorandum of Lease, the provisions of the Lease shall prevail. The rights and obligations set forth herein shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Any initial capitalized term not defined herein shall have the meaning as set forth in the Lease.

[SIGNATURES AND ACKNOWLEDGMENTS FOLLOW]

LANDLORD:

COLE BU PORTFOLIO II, LLC,
a Delaware limited liability company

By: Cole REIT Advisors III, LLC,
a Delaware limited liability company,
its manager

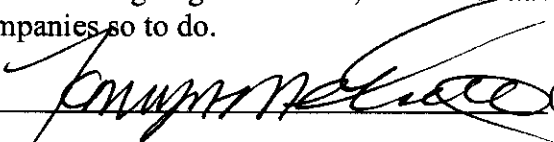
By: 
Name: Todd J. Weiss
Title: Senior Vice President

STATE OF ARIZONA)

ss.

COUNTY OF MARICOPA)

Personally appeared before me, the undersigned authority in and for the said county and state, on this 28th day of April, 2011, within my jurisdiction, the within named Todd J. Weiss, who acknowledged to me that he is the Senior Vice President of Cole REIT Advisors III, LLC, a Delaware limited liability company, manager of COLE BU PORTFOLIO II, LLC, a Delaware limited liability company, and as the act and deed of said limited liability companies, he executed the above and foregoing instrument, after first having been duly authorized by said limited liability companies so to do.

 (NOTARY PUBLIC)

My commission expires:

4-23-12

(Affix official seal, if applicable)



TENANT:

FIRE MOUNTAIN RESTAURANTS, LLC,
an Ohio limited liability company

By: Paul Holovnia
Name: Paul Holovnia
Title: Manager / Assistant Secretary

STATE OF MINNESOTA)

ss.

COUNTY OF DAKOTA)

Personally appeared before me, the undersigned authority in and for the said county and state, on this 28 day of April, 2011, within my jurisdiction, the within named Paul Holovnia, who acknowledged to me that he is Manager/ Assistant Secretary of Fire Mountain Restaurants, LLC, an Ohio limited liability company, and as the act and deed of said limited liability company, he executed the above and foregoing instrument, after first having been duly authorized by said limited liability company so to do.

Julie Hatfield (NOTARY PUBLIC)

My commission expires:

1-31-15

(Affix official seal, if applicable)

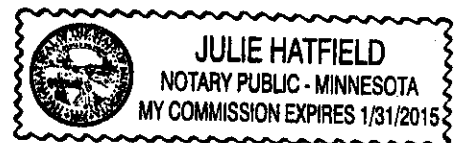


EXHIBIT "A"**Legal Description**

Property in Sutton Place Planned Unit Development, Part of Section 26, Township 1 South, Range 8 West, Horn Lake, DeSoto County, Mississippi:

Being all of Lot 5 of revised plat of Sutton Place Planned Unit Development as now recorded in Plat Book 46, Page 17 at the Chancery Clerk's Office in DeSoto County, Mississippi, in Section 26, Township 1 South, Range 8 West, DeSoto County, Mississippi.

Together with a 30.0 foot perpetual non-exclusive easement for ingress-egress over and across the following described tract:

Easement 1:

Commencing at the Southeast corner of Section 26, said point being the centerline of Goodman Road -- Mississippi Highway 302; thence N 00° 38' 38" W along the East Section 26 line, a distance of 60.00 feet to a point, said point being the North line of Goodman Road; thence S 89° 16' 35" W along the North line of Goodman Road, a measured distance of 241.03 feet (called 241.10 feet) to a point, said point lying 60.00 feet North of the centerline of Goodman Road and being the Southwest corner of Lot 5 of Sutton Place Planned Unit Development; thence N 86° 24' 38" W along the North line of Goodman Road, a distance of 199.45 feet North to a found iron pin, said pin being 75.00 feet North of the centerline of Goodman Road; thence S 89° 16' 35" W continuing along the North line of Goodman Road, a measured distance of 7.06 feet (called 7.50 feet) to a found iron pin, said pin being the Southeast corner of the open area of said subdivision; thence N 00° 13' 27" W along the East line of the open area, measured distance of 200.01 feet (called 200.00 feet) to a point, said point being the South line of Lot 7 of said planned unit development thence S 89° 16' 35" W along the South line of Lot 7, a distance of 20.97 feet to the point of beginning, said point lying on the East line of Street 1 (75 foot right-of-way); thence along the East line of Street 1 with a curve to the right, having a 394.14 foot radius, an arc distance of 31.46 feet (chord N 16° 45' 54" E 31.45 feet) to a point; thence N 89° 16' 35" E, a distance of 19.71 feet to a point; thence S 89° 24' 30" E, a distance of 132.07 feet to a point; thence S 00° 13' 27" E, a distance of 30.07 feet to a point, said point being the North line of Lot 4 of the said planned unit development; thence N 86° 24' 38" W along the North line of Lot 4, a distance of 132.94 feet to a point; thence S 89° 16' 35" W containing along the North line of Lot 4 and the North line of open area, a distance of 28.03 feet to the point of beginning and containing 4,200 square feet or 0.096 acres, as granted by that certain Access Easement, dated April 27, 1994, by and between RJF Investment Company and Ryans Family Steak Houses Inc. and filed on May 26, 1994 in Book 271, Page 364, DeSoto County Records.